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SUBJECT: SHANNON FIVE FOUND NOT GUILTY

Ref: Dublin 1372 from 2005 and previous

**¶1.** (SBU) Summary: On July 25, a jury found five anti-war protesters not guilty of criminally damaging a U.S. aircraft at Shannon Airport on February 3, 2003. In an unprecedented decision, Judge Miriam Reynolds allowed the accused, who had pleaded not guilty, to argue that they had a "lawful excuse" to cause damage, as they believed they were acting to protect lives and property in Iraq. The verdict, legal implications of which remain unclear, was greeted with surprise from most commentators. The Ambassador raised his concerns on the issue with the Foreign Minister and the Secretary General of the Department of Justice. The DCM and POL/ECON Chief followed up at senior levels of the foreign and justice ministries. GOI officials were surprised by the verdict, but said that because the verdict was made by a jury, not by a judge, it does not establish a new legal precedent. They assured the Ambassador of continued U.S. access to Shannon. Senator Brendan Daly (Fianna Fail) has raised the case with the Attorney General and signaled his intent to request the Director of Public Prosecutions to take the case to the Court of Criminal Appeal. Post would appreciate Washington's views on whether the USG could press charges against the five in a U.S. court. Anti-war organizers, emboldened by the jury's decision in this case, are organizing a major protest at Shannon on September 23, and declaring a long-term strategy of "shutting Shannon down until it is demilitarized." We will continue to press the GOI hard to protect U.S. interests and property. End summary.

#### The Case

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**¶2.** (SBU) On July 25, five anti-war protesters, the so-called "Fab Five" or "Shannon Five," were found not guilty at Dublin Circuit Criminal Court of criminally damaging a U.S. aircraft at Shannon Airport on February 3, 2003. The five admitted to having used hammers and an axe to damage the front, side and rear of a C48 U.S. Navy supply plane, but argued that they had a "lawful excuse" for doing so, as they believed they were acting to protect lives and property in Iraq. In an unprecedented decision, Judge Miriam Reynolds allowed the use of this defense. The five were Ciaron O'Reilly (46), an Australian national, Nuin Dunlop (34), a U.S. citizen, Karen Fallon (35), a Scottish national, and Irish citizens Damien Moran (26) and Deirdre Clancy (36), all members of the self-titled "Pitstop Ploughshares." The jury deliberated for four-and-a-half hours to reach its unanimous decision on day twelve of the trial.

Judge allows use of unprecedented defense

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¶3. (U) The verdict is seen by many commentators as being influenced by the decision of Judge Reynolds to allow the accused to use the defense of "lawful excuse." This defense allows for damage to property when the persons doing the damage honestly believe they are protecting lives, and when this belief is reasonable in the circumstances. Although not allowed by the judges in the previous two trials (because the lives allegedly being protected were so remote and/or the actions so insignificant), Judge Miriam Reynolds ruled, following lengthy legal argument, that the defense could be used. (Note: Post is seeking an interpretation of the ruling from both the Department of Justice and Department of Foreign Affairs.)

Reaction

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¶4. (SBU) Since the decision, Post has received numerous telephone calls from the public, including media contacts, mostly expressing surprise at the verdict. Senator Brendan Daly (Fianna Fail) contacted the Attorney General in relation to the case, signaling his intent to request that the Director of Public Prosecutions (DPP) take the case to the Court of Criminal Appeal. There have been calls from some groups, including the Irish Anti-war movement and the Socialist Workers Party, to protest at Shannon on September 23. In response, one of the five, Ciaron O'Reilly, said the Catholic Worker movement would take the next two weeks to analyze how many people would be needed to "shut Shannon Down until it is demilitarized." He indicated that the Catholic Workers movement would be interfacing with student

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organizations, anti-war groups, and church groups in Ireland and internationally to this end.

Comment

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¶5. (SBU) Post is focused on deciphering the legal implications of this verdict and pushing the GOI to take action to protect U.S. interests and property. Initial legal opinion indicated it is unlikely the five can be tried again on these charges as they were acquitted by a jury, and under Irish law, an accused is protected from double jeopardy. As media commentators have pointed out, this novel defense could justify a gamut of violent crimes. For example, the damaging of a vehicle could be justified, if a person believed the owner of the vehicle was a danger to life, and the action of damaging the vehicle would save lives. GOI contacts do not plan to comment publicly on this case, but have expressed sympathy and willingness to address the issue. They have also reassured post as to Shannon Airport's continued availability to U.S. military transits. This verdict has given anti-Iraq war protestors renewed vigor, but we seriously doubt that planned action to shut down U.S. military operations at Shannon will amount to anything.

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